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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,720	03/30/2005	Bruno Bozionek	2002P10527WOUS	9102

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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

EXAMINER

PHUNG, LUAT

ART UNIT	PAPER NUMBER
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2416

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07/28/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/529,720	Applicant(s) BOZIOONEK ET AL.	
	Examiner LUAT PHUNG	Art Unit 2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20,21,23-27,29-32,35,36 and 39-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20,21,23-27,29-32,35,36 and 39-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's arguments filed May 7, 2009 have been fully considered but they are not deemed to be persuasive.
2. Claims 20, 21, 23-27, 29-32, 35, 36 and 39-46 are pending and rejected.
3. Claims 1-19, 22, 28, 33, 34, 37 and 38 have been cancelled.
4. Claims 20, 26, 32, 35, 36 and 39-43 have been amended.
5. Claims 44-46 are added.
6. On page 10, applicants argue that:

As correctly noted by the Examiner at page 13 of the Office Action, Jeong, Mauger and Avaramudan et al. do not disclose *a resource control device that causes another data processing device to take over the request, or take over the teleconference after an initially selected device overloads or is evaluated and determined to be unable to respond to such a request.* [emphasis added]

Examiner respectfully disagrees.

The office action did not recite such text, which is newly amended in applicants' current response.

7. On page 10, applicants argue that:

The amended claims all require a resource control device to determine or make a determination that a selected data processing device cannot process a request or can no longer process a request and, after making such a determination, cause another

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data processing device to take over the request, or take over the teleconference. None of the cited art teaches or suggests such a resource control device.

Examiner respectfully disagrees.

As a recap of the rejection of the independent claims, Avaramudan discloses wherein the resource control device determines when the selected telephone and/or video conference data processing device cannot process a request and causes another of the telephone and/or video conference data processing devices to take over the request. (abstract; claim 2; col. 8, lines 7-33; device servers and device transmit to and receive from conference bridge during conference call; in the event a user or device server is dropped from conference, the call coordinator evaluates the conference call as it will be with one less conferee and selects a conference bridge for the call, and as necessary a conference call which may already be using the selected bridge can itself be reassigned to another bridge; col. 7, lines 60 to col. 8, line 5; Fig. 3 shows how conference call in Fig. 2 is changed after some device servers are dropped and another device server is added, causing another conference bridge to be selected; col. 4, lines 16-29, col. 7, lines 8-24).

Clearly the prior art of record teaches the above-cited limitation.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said

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subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claims 20, 21, 23-27, 29-32, 39, 40 and 42-46 are rejected under U.S.C. 103(a) as being unpatentable over Jeong (US 6,801,540), in view of Avaramudan, et al (US 6,584,076), and further in view of Detampel, et al. (US Pub. 2001/0002927).

Regarding **claims 39 and 42**, Jeong discloses a data communications method for use in a data communications system comprising:

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a plurality of clients (terminals per Fig. 1, elements 300's, 400's, 500's) connected by at least one network (LAN per Fig. 1) to a private branch exchange (PBX) (Fig. 1, element 100), wherein a first of the clients (terminals in PSTN per Fig. 1, elements 300s) communicates with the PBX using a first data transmission protocol (PSTN signal per col. 4, lines 51-61), and a second of the clients (H.323 terminals per Fig. 1, elements 400s) communicates with the PBX using a second data transmission protocol, the first data transmission protocol being different than the second data transmission protocol; (H.323 signal, which is different from PSTN signal, per col. 4, lines 51-61; col. 4, lines 6-50)

a data conversion device supporting both the first and second data transmission protocols, wherein the data conversion device converts transmission data between the first and second protocols (H.323 gateway converting PSTN signals and H.323 signals per col. 4, lines 51-61; call converter converting between H.323 and proprietary protocols per col. 4, lines 20-50; Fig. 1)

Jeong does not explicitly disclose:

a plurality of first telephone and/or video conference data processing devices supporting the first data transmission protocol;

a resource control device that selects one of the first telephone and/or data processing devices to execute a teleconference based on a telecommunications load and resource availability;

wherein the data conversion device forwards data converted to the first protocol to the selected telephone and/or video conference data processing device, which

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executes the teleconference among the first and second clients and at least a third one of the clients;

wherein the resource control device determines when the selected telephone and/or video conference data processing device cannot process a request and causes another of the telephone and/or video conference data processing devices to take over the request.

Avaramudan from the same or similar fields of endeavor discloses:

a plurality of first telephone and/or video conference data processing devices supporting the first data transmission protocol; (Fig. 1; col. 3, line 53 to col. 4, line 36, col. 4, line 51 to last line; conference bridge together with a device server communicating using a protocol with a device, e.g., 103-3, which is an IP or POTS phone)

a resource control device that selects one of the first telephone and/or data processing devices to execute a teleconference based on resource availability; (call coordinator selecting conference bridge as function of capabilities to achieve the desired conference call per col. 6, lines 42-59) it is obvious to one of ordinary skill in the art at the time of the invention that a conference bridge, a system resource, must be available to be selected to set up a conference call;

wherein the data conversion device forwards data converted to the first protocol to the selected telephone and/or video conference data processing device, (Fig. 1; col. 3, line 53 to col. 4, line 36, col. 4, line 51 to last line; device server translating protocol of a device to another protocol of another device via the conference bridge) which

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executes the teleconference among the first and second clients and at least a third one of the clients; (conference bridge used to set up conference call consisting of three or more devices per col. 4, lines 37-59, col. 6, lines 41-59)

wherein the resource control device determines when the selected telephone and/or video conference data processing device cannot process a request and causes another of the telephone and/or video conference data processing devices to take over the request. (abstract; claim 2; col. 8, lines 7-33; device servers and device transmit to and receive from conference bridge during conference call; in the event a user or device server is dropped from conference, the call coordinator evaluates the conference call as it will be with one less conferee and selects a conference bridge for the call, and as necessary a conference call which may already be using the selected bridge can itself be reassigned to another bridge; col. 7, lines 60 to col. 8, line 5; Fig. 3 shows how conference call in Fig. 2 is changed after some device servers are dropped and another device server is added, causing another conference bridge to be selected; col. 4, lines 16-29, col. 7, lines 8-24).

Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to implement the conference bridges and call coordinator as suggested by Avaramudan in the PBX of Jeong since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. The motivation for doing so would have been to support conference calling in the PBX.

The combination of Jeong and Avaramudan discloses all of the subject matter except a resource control device that selects one of the telephone and/or data

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processing devices *based on a telecommunications load*. Detampel from the same or similar fields of endeavor discloses determining if sufficient ports are available (Fig. 5, element 503) and accordingly selecting a conference bridge considering load control and routing cost and using criteria including availability, load control, least-cost routing and component failure, for example, selecting one with the most available conferencing ports (para. 5, 57). Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to combine the PBX with conference bridges of Jeong and Avaramudan with the conference bridge selection of Detampel by selecting one for teleconference based on load and resource availability in order to improve utilization of conference resources.

Regarding **claim 20**, Avaramudan further discloses wherein the first telephone and/or video conference data processing devices and the data conversion device are arranged in a computer. (col. 2, line 61 to col. 3, line 17) It is noted that it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Regarding **claim 21**, Avaramudan further discloses wherein the computer is a server. (col. 2, line 61 to col. 3, line 17)

Regarding **claim 23**, Jeong further discloses wherein the second data transmission protocol is an open, standardized protocol. (col. 4, line 28)

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Regarding **claim 24**, Jeong further discloses wherein the second data transmission protocol is an H.323 or H.225/H.245-based protocol or an SIP-based protocol. (col. 4, line 28)

Regarding **claim 25**, Jeong further discloses wherein the first data transmission protocol is a proprietary or generic protocol. (col. 4, line 28)

Regarding **claim 26**, Jeong further discloses wherein the first data transmission protocol is a PCM-based protocol or TDM-based protocol. (col. 4, lines 51-52)

Regarding **claim 27**, Jeong further discloses wherein the first and/or the second data transmission protocol is a TCP/IP-based data transmission protocol. (col. 4, line 28)

Regarding **claim 29**, Jeong further discloses wherein one or more of the clients are connected to an Intranet data network. (Fig. 1; col. 4)

Regarding **claim 30**, Jeong further discloses wherein one or more of the clients are arranged outside the Intranet data network. (Fig. 1; col. 4)

Regarding **claim 31**, Examiner takes official notice that it is well known in the art at the time of the invention that one or more of the clients are configured to be connected to a further Intranet data network.

Regarding **claim 32**, Jeong in view of Avaramudan and Detampel further discloses wherein the first telephone and/or video conference data processing devices are connected to the Intranet data network. (Fig. 1; col. 4)

Regarding **claims 40 and 43**, Detampel further discloses wherein the resource control device is in the PBX (para. 3) and selects from among the first telephone and/or

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data processing devices in the PBX (para. 3; PBX supporting conference) and from among further first telephone and/or data processing devices in an external network that are directly or indirectly connected to the PBX to execute the teleconference. (para. 16; conference bridges in geographically diverse location within a single conferencing system)

Regarding **claim 44**, Avaramudan further discloses wherein the teleconference is a video teleconference or video conference. (col. 6, line 20)

Regarding **claim 45**, Jeong in view of Avaramudan and Detampel further discloses wherein the data conversion device is a gatekeeper or a gatekeeper module. (Fig. 1, H323 Gate Keeper 15)

Regarding **claim 46**, Jeong in view of Avaramudan and Detampel further discloses wherein the at least one network is at least one Intranet data network. (Fig. 1; col. 4)

12. Claims 35-36 are rejected under U.S.C. 103(a) as being unpatentable over Jeong, in view of Avaramudan, et al and Detampel, et al, and further in view of Potter, et al (US Pub. 2001/0043608).

Regarding **claim 35**, the combination of Jeong, Avaramudan and Detampel discloses all of the subject matter as recited previously in this office action except wherein an additional telephone and/or video conference data processing device supporting the second data transmission protocol is provided, which can be used instead of the telephone and/or video conference data processing device. Potter from

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the same or similar fields of endeavor discloses a virtual PBX supporting supplementary services such as conference calling using CSTA (para. 29, 35-48). Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to implement CSTA as suggested by Potter in the conference bridge in the PBX of Jeong, Avaramudan and Detampel during the selection of the conference bridge. The motivation for doing so would have been to support conference calling for different protocols.

Regarding **claim 36**, Jeong in view of Avaramudan, Detampel and Potter discloses wherein the additional telephone and/or video conference data processing device is connected to the Intranet data network, or wherein the additional telephone and/or video conference data processing device is arranged outside the Intranet data network is connected to a further Intranet data network. (Fig. 1; col. 4)

13. Claim 41 is rejected under U.S.C. 103(a) as being unpatentable over Jeong, in view of Avaramudan, et al, Detampel, et al., and further in view of Pinard, et al (US 6,819,665).

Regarding **claim 41**, the combination of Jeong, Avaramudan and Detampel discloses a system, as recited above in the rejection of claim 39, but not *a computer* comprising the devices, the interface in a gatekeeper module and the resource control device. However, Pinard ("PBX Implemented Using H.323 Gatekeeper") from the same or similar fields of endeavor discloses implementing H.323 standard, including the H.323 gatekeeper, in a PBX with full functionality (col. 2, lines 10-18). Jeong further

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discloses a gatekeeper implementing conversion to support connections between H.323 and PSTN endpoints (col. 4, lines 55+) Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to combine the system of Jeong, Avaramudan and Detampel with the network PBX of Pinard by integrating the components into a computer since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. The motivation for doing so would have been to incorporate an emerging standard for multimedia communication to voice communications traditionally implemented in a PBX.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUAT PHUNG whose telephone number is (571) 270-3126. The examiner can normally be reached on M-Th 7:30 AM - 5:00 PM, F 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Q. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. P./

Examiner, Art Unit 2416

/Ricky Ngo/

Supervisory Patent Examiner, Art Unit 2416